

Gold Book Text

Exploration and Development on Split Estates - NonFederally Owned Surface/Federally Owned Minerals

The operator should contact the private surface owner prior to entering upon private surface to stake a well location and access road or conduct cultural or biological surveys.

Each Application for Permit to Drill (APD), Notice of Staking (NOS), or Sundry Notice (SN) to conduct new surface disturbing activities must contain the name, address, and the telephone number of the private surface owner and if available, the E-mail address. The BLM will invite the surface owner to participate in the onsite inspection and will take into consideration the needs of the surface owner when reviewing the APD. BLM will offer the surface owner the same level of surface protection BLM provides on Federal surface. BLM will not apply standards or conditions that exceed those that would normally be applied to Federal surface, even when requested by the surface owner.

Prior to approval of the APD, (or Sundry Notice to conduct new surface disturbing activities), the operator must certify as part of the complete application that it has made a good faith effort to reach an agreement with the private surface owner. If the surface owner and operator fail to reach an agreement, the operator must file a bond (determined by BLM, minimum of \$1,000) with BLM for the benefit of the surface owner to cover compensation for reasonable and foreseeable loss of crops and damages to tangible improvements. The BLM will advise the surface owner of appeal rights and will review the value of the bond if the surface owner appeals.

The operator is encouraged to negotiate an agreement with the surface owner. Negotiating an agreement in good faith provides a forum through which the operator and surface owner can discuss the preferences and needs of the surface owner. In addressing those needs, the operator may be able to modify the development proposal to minimize reclamation and surface damage costs. These costs can be minimized by placing roads and facilities in locations that the surface owner can use, thereby lessening the reclamation obligations of the operator.

The agreement between the surface owner and the operator is confidential, and neither the surface owner nor the operator is required to provide the details of the agreement to the BLM or other agencies. However, the APD Surface Use Plan of Operations should contain sufficient detail about any aspects of the agreement necessary for National Environmental Policy Act (NEPA) documentation and to determine that the operations will be in compliance with laws, regulations, Onshore Orders, and agency policies.

The BLM may need additional cultural resources, threatened and endangered species, or other resource survey information in order to comply with the National

Historic Preservation Act (NHPA), the Endangered Species Act (ESA), or to complete an environmental analysis under the National Environmental Policy Act. In cases where the operator has agreed to complete the needed surveys, the operator will be responsible for making access arrangements with the private surface owner.